

REMARKS

Entry of this amendment is respectfully requested.

it is believed that the amendments to claim 10 render the 35 U.S.C. §112, second paragraph, rejection of the claims moot.

Claims 1-23 were rejected under 35 U.S.C. §103(a) for allegedly being unpatentable over Buckley, Iwao or Schwindeman in view of Screttas, Beumel or Morrison. Applicants respectfully submit that they are unable to properly address this rejection, because the Examiner indicates claims 1-23 were rejected, while only claims 10-19 are pending. Clarification was already requested on May 23, 2008 with a Request for a New Office Action, but today the Examiner left a voice mail message from the Examiner indicating that he could not issue a new office action because he did not see what was wrong with the prior action.

Applicants should not have to assume whether all or just some claims were rejected, and would like to properly address this rejection should the Examiner maintain it in the next action.

Since the rejection is unclear with respect to the claims to which it may apply, Applicants respectfully request that the Examiner issue a new office action which correctly sets forth the rejected claims, and which resets the period for response, or, in the alternative, withdraw the rejection.

Claims 10-19 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting over USSN 10/498,186 in view of Emmel. Applicants respectfully traverse, ads the '186 application has issued as U.S. Patent No. 7,175,784, so it should no longer be a provisional rejection. If the Examiner is referring to a different application, he is respectfully requested to provide the serial number of that application.

Claims 10-19 were rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-21 of the '784 patent in view of Weiss. Applicants respectfully

traverse, and request clarification. Weiss et al. are the inventors of the '784 patent. No other Weiss et al. reference is mentioned in the 35 U.S.C. §103(a) rejection, so it is unclear to Applicants which Weiss et al. reference the Examiner refers to in this rejection. Thus, the Examiner must identify which Weiss et al. reference he is referring to in combination with the '784 patent as applied in this rejection. The Examiner is also reminded that he should only look to the claims, and not the disclosure of the '784 patent if he chooses to maintain the double patenting rejection.

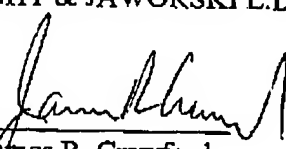
Furthermore, the Examiner has combined provisional and non-provisional obviousness-type double patenting rejections, and two different combinations of references. It is unclear which combination is the provisional rejection, since the '186 application has issued as the '784 patent.

In view of the foregoing, allowance is respectfully requested.

The Commissioner is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 50-0624, under Order No. NY-DNAG-324-US.

Respectfully submitted

FULBRIGHT & JAWORSKI L.L.P.

By 
James R. Crawford
Reg. No. 39,155

666 Fifth Avenue
New York, New York 10103
(212) 318-3000